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NO. 88-539

IN THE

Supreme Court of the United States

October Term, 1988

JAMES E. POOLE, JR., et al.,
Appellants,

vs.

EMMA GRESHAM, et al.,
Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA

MOTION TO DISMISS OR AFFIRM

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QUESTIONS PRESENTED

1. Whether this appeal should be dismissed on the ground that the voting changes which Appellants seek to have enforced without preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. §1973c, have become moot?

2. Whether voting changes directed by a state court in a covered jurisdiction which alter election procedures previously precleared by the Attorney General are subject to Section 5?

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No. 88-539

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1988

JAMES E. POOLE, JR., et al., Appellants,

v.

EMMA GRESHAM, et al., Appellees.

MOTION TO DISMISS OR AFFIRM

Pursuant to Rule 16.1(c) Appellees move to dismiss this appeal on the ground that the appeal is not within this Court's jurisdiction, or in the alternative to affirm the judgment sought to be reviewed on the ground that it is manifest that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

STATEMENT OF FACTS

Appellees are black residents of

Keysville, Georgia, a majority black municipality of approximately 300 people in rural Burke County. Although Keysville was chartered in 1890, prior to the election held on January 4, 1988, the town had not held an election or had any municipal officials since approximately 1933. The election in January was conducted pursuant to the order of the three-judge court in this case, Gresham v. Harris, Civ. No. 1:87-CV-867-JOF (N.D.Ga.), J.S.App., pp. A-1 - A-25, and the Attorney General's preclearance of new election procedures under Section 5 of the Voting Rights Act, 42 U.S.C. §1973c,

Restoration of elected government in Keysville has been a battle fought overtly on racial lines. Blacks have strongly supported restoration because of their need for municipal services, such as water and sewerage and police and fire protection. Whites have adamantly opposed restoration because they do not wish to be governed by black elected

officials or pay for municipal services. Whites have repeatedly argued that the municipal boundaries of the town were undeterminable and that as a consequence elections could not be held.[1]

In an attempt to restore city government Appellees and other black residents of Keysville organized a town meeting in 1985 and chose superintendents to conduct new elections. Appellants, who are white and are opposed to restoration of municipal government, filed a law suit, Poole v. Lodge, Civ. No. 85-V-414 (Sup. Ct. Burke Cty. Ga.), and secured an injunction against the elections

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1. They contend that the location of the schoolhouse, which was designated as the center of town in the 1890 act of incorporation, Ga. Laws 1890-91, Volume II, p. 657, and which was destroyed many years ago in a storm, is presently unknown and that as a consequence it is impossible to establish the boundaries of the town and conduct elections. Whites have also resorted to scare tactics telling elderly blacks that if government were restored they would lose their homes and racial violence would result.

until county officials complied with all requirements of state law, including determining the municipal boundaries of Keysville.

Appellees filed the instant law suit on April 29, 1987 seeking declaratory and injunctive relief against the Governor for failing to appoint persons to the vacant city offices pursuant to state law. Also in 1987, the Georgia General Assembly enacted a statute for the purpose of establishing a method of restoring municipal government to Keysville by providing that in the event all the offices of a municipality were vacant, "the election superintendent of the county in which the municipality is located shall have the authority to call for a special election to fill the vacant offices and to conduct...the special election." O.C.G.A. §36-30-13. The statute also authorized the board of registrars for the county to prepare a list of electors for the election.

The Attorney General of Georgia advised the Secretary of State by letter in August, 1987, that the new law was mandatory and that the election superintendent of Burke County was required to call and conduct special elections for Keysville.

After Section 5 preclearance of §36-30-13, Appellees moved to amend their federal complaint to add county officials as defendants charging that they had failed to call elections for Keysville as required by the new statute. Following the filing of the motion to amend, the election superintendent of Burke County, pursuant to §36-30-13, called an election for Keysville for January 4, 1988.

The call and date for the election, together with a map designating the boundaries of the town to be used in determining voter eligibility, were prepared by county officials and submitted to the Attorney General pursuant

to Section 5 of the Voting Rights Act.[2] The submission was precleared on December 9, 1987. A copy of the preclearance letter is appended hereto at 1a.

On December 3, 1987, the plaintiffs in Poole v. Lodge, supra (Appellants here), filed a motion in their state court law suit to enjoin the January election on the ground that the boundaries of the town were undetermined. The court granted the motion and on December 31, 1987 entered an order enjoining the Keysville elections and further enjoining county officials from "undertaking

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2. The map was prepared by the county tax assessor based upon his review of various deeds and plats recorded in the county courthouse. J.S.App., pp. A-66 - A-70. The county board of registrars then used the map to prepare the list of eligible voters for the January elections. Id., p. A-72. In submitting the map for preclearance, the county attorney advised the Attorney General that while setting the town boundaries "has been one of the problems that has confronted the county...we now believe that the boundaries have been reasonably determined, and the election can go forward."

any actions with regard to the scheduling or conducting of municipal elections until such time as the municipal boundaries for the town of Keysville have been properly delineated in accordance with the requirements of law." J.S.App., p. A-48. The court also held that its order "is not subject to Section 5 preclearance." Id.

Appellees then filed a motion in this case for a temporary restraining order and a preliminary injunction enjoining county officials from implementing any of the voting changes in the state court order absent preclearance under Section 5. The district court as a single-judge court allowed Appellants (plaintiffs in Poole v. Lodge, supra) to participate in the hearing and over their objections, but with the consent of the Attorney General of Georgia and Burke County officials, issued a temporary restraining order on December 31, 1987 permitting the elections to go forward. J.S.App., p. A-11.

On the day of the elections, Joseph Cochran, Sr. (who later contested the results of the election along with Appellant Muns and others) and Hassie Cochran filed an action with the Burke County board of registrars and the superintendent of elections challenging the eligibility of 41 town electors on the ground that the boundaries of the town had not been determined and that the residency of the voters could not be established. The challenge was heard and dismissed. There was no appeal. J.S.App., pp. A-79 - A-80.

There were two slates of candidates in the elections, one favoring restoration of municipal government and having the support of black residents, and the other opposing restoration and having the support of white residents. Voting in the elections was sharply polarized on the basis of race. See, J.S.App., p. A-80, and Rogers v. Lodge, 458 U.S. 613, 623 (1982) (finding "overwhelming evidence of bloc voting along racial lines" in

elections for the Burke County Commission"). Appellee Gresham was elected mayor and Appellees C. Neely, M. Holland, A. Lewis and Morris were elected as members of council. Appellant Poole, who had only write-in opposition, was elected as the fifth council member.

Immediately after the January elections, local whites, including Appellant Muns, filed a challenge to the results alleging that the boundaries of the town were indeterminable and that it was impossible to ascertain who was a qualified voter or candidate. The contest was denied and the state court affirmed the results of the election "based upon the map and voter's list as submitted by the Burke County Board of Registrars and precleared and approved by the United States Attorney General." In Re: Contest of Election Results of the Keysville Municipal Elections Held January 4, 1988, Civ. No. 88-V-21 (Sup. Ct. Burke Cty. Ga.), J.S.App., p. A-86. The

contestants did not appeal.

On January 14, 1988 the district court as a three-judge court held a hearing on Appellees' motion for a preliminary injunction. The court granted the motion to intervene filed by Appellants and over their objections, but again with the consent of the Attorney General of Georgia and Burke County officials, granted preliminary injunctive relief. Thereafter, on June 30, 1988 the three-judge court granted permanent injunctive relief finding that the state court order "changed a previously precleared practice and therefore should also have been precleared." J.S.App., p. A-24. Appellants appealed to

this Court.[3]

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3. Since their election, the mayor and council have tried to govern Keysville - despite strong opposition by whites. In April, 1988 they adopted a license ordinance charging a small tax for conducting business in Keysville. In July, 1988, pursuant to the petition of affected land owners, they agreed by ordinance to annex certain areas adjacent to the town as designated on the map used to determine residence of voters in the January municipal elections.

The Keysville Convalescent and Nursing Center, Inc., which is owned and operated by Appellants Marshall and Harmon, filed suit against the town in state court on August 11, 1988 seeking a declaration that it was not required to pay a license fee or tax because it was impossible to tell if the nursing center was inside or outside the boundaries of the town. See, Keysville Convalescent and Nursing Center, Inc. v. City of Keysville, Georgia, Civ. No. 88-V-280 (Sup. Ct. Burke Cty. Ga.). A second group of whites, including Appellants Poole, Muns, Way, Marshall and Harmon, filed another suit against Keysville on August 24, 1988 in state court seeking a declaration that the proposed annexation was null and void on the ground that the boundaries of the town were indeterminable. See, Poole v. City of Keysville, Georgia, Civ. No. 88-V-293 (Sup. Ct. Burke Cty. Ga.). The City of Keysville removed both state court cases to federal court where they are presently pending. See, Poole v. City of Keysville, Georgia, Civ. No. CV 188-184 (S.D.Ga.), and Keysville Convalescent and Nursing Center, Inc. v. City of Keysville, Georgia, Civ. No. CV 188-183 (S.D.Ga.).

ARGUMENT

I. This Appeal Should Be Dismissed as Moot

Since entry of the order in Poole v. Lodge, supra, which held that the boundaries of Keysville were undetermined, the Burke County board of registrars in a challenge to eligible voters and the Superior Court of Burke County in an election challenge have issued final judgments, based upon the Attorney General's intervening preclearance, that the boundaries of Keysville have been legally determined for purposes of conducting elections. J.S.App., pp. A-79 - A-80, A-86. Under Georgia law both of these decisions are entitled to res judicata or preclusive effect as far as the plaintiffs in Poole (Appellants here) are concerned.

Res judicata is a rule of law applied in Georgia that a final judgment or decree on the

merits by a court of competent jurisdiction is conclusive of rights of parties or their privies in all later suits on points or matters determined in the former suit or which might have been put in issue. O.C.G.A. §§ 9-12-40; Lewis v. Price, 104 Ga. App. 473, 474-75 (122 SE2d 129)(1961); 18 E.G.L. Judgments & Decrees, §§285, 306. Under the related doctrine of estoppel by judgment, or collateral estoppel, a party in a second suit may be precluded from asserting one or more facts which were actually decided in a former suit, although the two suits were for different causes of action, and all the parties to the two suits were not identical. Smith v. Wood, 115 Ga.App 265, 266-67 (154 SE2d 646) (1967); King Sales Co. v. McKey, 105 Ga.App. 787, 788-89 (125 SE2d 684) (1962); 18 E.G.L., supra, §§ 284, 306.

The final decision of an administrative body, such as the county board of registrars, is also entitled under Georgia law to res

judicata and preclusive effect. City of Atlanta v. Blackman Health Resort, 153 Ga. 499, 509-10 (113 SE 545) (1922); Epps Air Service, Inc. v. Lampkin, 229 Ga. 792, 795 (194 SE2d 437) (1972).

The judgments here were rendered by a court and an administrative body of competent jurisdiction. The judgments were final and resolved the merits of the plaintiffs' claims that the boundaries of Keysville were undetermined for purposes of conducting elections. Appellant Muns, who is one of the plaintiffs in Poole v. Lodge, supra, and who is in privity with the other plaintiffs, i.e., he is identified in interest with them, Roadway Express Inc. v. McBroom, 61 Ga.App. 223, 226 (6 SE2d 460) (1939), was also one of the parties in the state election challenge. Joseph Cochran, Sr., who was one of the parties in the state election challenge along with Appellant Muns, was also a party in the state challenge to eligible voters. Thus, the

plaintiffs in Poole have an identity of interests with the plaintiffs in the two intervening state judgments such that they are bound by those judgments that the boundaries of Keysville have been legally determined for purposes of conducting elections. There is a similar identity of interests or privity among the defendants in Poole v. Lodge, supra, and the defendants in the challenge to eligible voters and the challenged winners of the January election (accepting Appellant Poole).

The plaintiffs in Poole are now bound by the intervening state judgments and may no longer argue that the boundaries of Keysville are undetermined for purposes of holding elections. The boundaries, as the state judgments provide, have been so determined. The Poole litigation, accordingly, is now

moot.[4]

The issue before this Court, therefore, is whether the state court order in Poole, now moot, should be submitted for preclearance. Since the order can no longer be enforced under state law, any decision concerning the propriety of its submission under Section 5 would be purely advisory and would not arise in the context of a continuing case or controversy. Such a decision would be beyond the power of this Court to give. Flast v. Cohen, 392 U.S. 83, 94-5 (1968); Aetna Life Insurance Co. v. Haworth, 300 U.S. 227, 239-40 (1937). Accordingly, this appeal should be dismissed as moot.

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4. Having had a full and fair opportunity to litigate their claims in state judicial or quasi-judicial forums, Appellants are bound by the fact finding of those tribunals in federal court as well. Migra v. Warren City School District, 465 U.S. 75 (1984); University of Tenn. v. Elliott, ___ U.S. ___, 106 S.Ct. 3220, 3227 (1986).

II. The Questions Are Unsubstantial

It is undisputed that Appellants, a group of disgruntled whites who oppose the restoration of municipal government in Keysville, are the only parties contending that preclearance of the voting changes contained in the state court order is not required. J.S.App., p. A-16. The Attorney General of Georgia and the election officials of Burke County agree with Appellees that the new voting procedures at issue are subject to preclearance under the Voting Rights Act.

The issues presented in this appeal are narrow. Appellants do not dispute that Keysville is covered by Section 5 or that voting changes directed by state courts, including changes in the dates of elections, are subject to preclearance. J.S., pp. 29, 35, and J.S.App., p. A-15. Appellants' argument is that the state court did not in fact direct the implementation of any voting changes, J.S., p. 33, but that even if it did,

the changes were incident to the enforcement of previously precleared state law and are therefore not subject to Section 5 review. J.S., p. 40.

Appellants' first contention is plainly incorrect. As the three-judge court found, "it is clear that the order did, at the least, change the date of the election, if not halt it altogether. A change in the date of an election...requires approval by the Attorney General under section 5. NAACP v. Hampton County Election Commission, 470 U.S. 166, 178 (1985)." J.S.App., p. A-17. Department of Justice regulations governing the administration of Section 5 are in agreement. See, 28 CFR §51.17(a)("The conduct of a special election...is subject to the preclearance requirement to the extent that the jurisdiction makes changes in the

practices or procedures to be followed.").[5]

Appellants' second contention, as the three-judge court found, is simply contrary to the prior decisions of this Court. In NAACP v. Hampton County Election Commission, 470 U.S. 166 (1985), the Department of Justice precleared on November 19, 1982 a state statute calling for special elections for a county school board to be held at the time of the November general election. Following the belated preclearance, county officials set March 15, 1983 as a new date for the election. They contended, precisely as the Appellants do here, that "because the rescheduling [of the election] in this case

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5. Other voting changes in the state court order included altering or denying the authority of election superintendents to call elections and registrars to define the electorate and prepare voters' lists pursuant to O.C.G.A. §36-30-13, and ruling that the town boundaries could not be determined at all when county officials had concluded otherwise. J.S.App., p. A-21.

was merely an administrative effort to comply with a statute that had already received clearance, it was not a change of such magnitude as to trigger the requirements of § 5." 470 U.S. at 178, 180. This Court disagreed. It held that the disputed change was required to be precleared under Section 5. 470 U.S. at 181.

Appellants' reliance upon the district court's opinion in Williams v. Sclafani, 444 F.Supp 895 (S.D.N.Y. 1977) is misplaced. As the three-judge court noted here, the holding in Williams was based largely on the district court's conclusion that state court orders were exempt from Section 5 review. J.S.App., pp. A-20 - A-21; 444 F.Supp. at 903-04. That holding was repudiated by Hathorn v. Lovorn, 457 U.S. 255 (1983), decided five years later.

Appellants concede that the scheduling of an election by the state court, even if undertaken to comply with previously precleared state law, would be a voting change

required to be precleared under Section 5. J.S., p. 29 ("Appellants further recognize that if the State Court's Order were to be enforced, the scheduling of any subsequent special election would have to be precleared with the Attorney General."), and pp. 34-5. Accord, 28 CFR §51.17(b)("Any discretionary setting of the date for a special election or scheduling of events leading up to or following a special election is subject to the preclearance requirement."). Appellants do not explain, however, why the setting of an election date should be covered by Section 5 while the alteration of the date, or the halting, of elections should not be covered by Section 5. Both have the potential for discrimination and for that reason both are covered by Section 5. NAACP v. Hampton County Election Commission, supra, 470 U.S. at 181. Also see, Hadnott v. Amos, 394 U.S. 358, 365-66 (1969)(rescheduling of a candidate qualifying period is a covered voting

change).[6]

There is no basis in Section 5 jurisprudence for the distinction urged by the Appellants in this case. As this Court has repeatedly stated, Section 5 must be given "the broadest possible scope" to reach any practice "which alter[s] the election law of a covered State in even a minor way." Allen v. State Board of Elections, 393 U.S. 544, 566-67 (1969); City of Pleasant Grove v. United States, ___ U.S. ___, 107 S.Ct. 794, 798 (1987). Also see, 28 CFR §51.12 (1987) (requiring the submission of any change in voting "even though it appears to be minor or indirect").

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6. While the merits of the changes in question are not involved in this appeal, McCain v. Lybrand, 465 U.S. 236, 250 (1984), there is no doubt that they have the potential for discrimination. The effect of implementation of the new procedures would be to turn recently elected black officials out of office and disfranchise minority voters in Keysville.

This Court has consistently defined Section 5 broadly, stressing that the statute is not a mere inventory of voting procedures but is concerned with "the reality of changed practices as they affect Negro voters." Georgia v. United States, 411 U.S. 526, 531 (1973). Congress, expressly approving the broad definition of Section 5 adopted by this Court and the Attorney General, has extended the preclearance provisions of the Voting Rights Act on three different occasions, in 1970, 1975 and 1982. 84 Stat. 314; 89 Stat. 402; 96 Stat. 131; City of Pleasant Grove v. United States, supra, 107 S.Ct. at 798; Dougherty County, Ga. v. White, 439 U.S. 32, 38-9 (1978); S.Rep. No. 97-417, p. 9 (1982), U.S. Code & Admin. News 1982, p. 186.

Given the broad scope of Section 5, the settled case law and the legislative history of the statute, the question whether the voting changes at issue in this appeal are subject to prelearance is so unsubstantial as

not to warrant further argument.

III. The Fact that a Jurisdiction May Be in Violation of State Law Is not a Defense for Failing to Comply with Section 5

The fact that a covered jurisdiction may be in violation of state law is no basis for non-compliance with Section 5 when it seeks to implement a voting change. In Perkins v. Matthews, 400 U.S. 379 (1971), the City of Canton, Mississippi elected its aldermen by ward elections in violation of a 1962 state law that required aldermen to be elected at-large. At the elections in 1969, the city, in an effort to comply with state law, attempted to implement at-large elections. In an action by local voters and candidates to require preclearance of the at-large elections, the city argued that it had no other choice than to comply with the 1962 state law in the 1969 elections and that doing so was not a change in voting subject to Section 5. This Court held that conducting at-large elections, even

if district elections were in violation of state law, was a change in voting that could not be implemented without Section 5 preclearance. Accord, City of Lockhart v. United States, 460 U.S. 125, 132 (1983)(whether local officials were seeking to act in conformity with state law was "essentially irrelevant" in evaluating the effect of a voting change); Hathorn v. Lovorn, supra, 457 U.S. at 256, n. 16 ("§ 5 comes into play whenever a covered jurisdiction departs from an election procedure that was "in fact 'in force or effect'...on November 1, 1964." Perkins v. Matthews").

By analogy to Perkins, even if the elections in Keysville were in violation of state laws governing the location of municipal boundaries, or were in violation of a state court order, the county's failure to conduct the elections would still be a covered

change.[7] Such a result is compelled, not only by the decisions of this Court, but by the Supremacy Clause of Article VI of the Constitution.

Appellants complain that if the decision of the three-judge court were affirmed it would deprive state courts of the ability to enforce state election laws. J.S., pp. 30-

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7. The benchmark for determining a voting change is ordinarily the practice in force or effect on November 1, 1964. Perkins v. Matthews, supra, 400 U.S. at 395. As the three-judge court found, however, where intervening changes have been enacted and precleared they become the appropriate benchmark for determining voting changes and administering Section 5. J.S.App., p. A-18. Also see, Busbee v. Smith, 549 F.Supp 494, 498 (D.D.C. 1982)(voting change was a congressional reapportionment enacted in 1981 different from that enacted in 1972), aff'd, 459 U.S. 1166 (1983); Edge v. Sumter County School District, 775 F.2d 1509, 1512 (11th Cir. 1985)(a court should ordinarily reinstate "the last valid plan in effect" in fashioning a Section 5 remedy); NAACP, DeKalb County Chapter v. Georgia, 494 F.Supp. 668, 676 (N.D.Ga. 1980); 28 CFR §51.54(d)("the comparison shall be with the last legally enforceable practice or procedure used by the jurisdiction").

1. To the contrary, states are always free to enforce their election laws, provided they do so in conformity with Section 5.

IV. The Attorney General Can Evaluate the Changes Presented

Appellants argue that preclearance should not be required of the changes directed by the state court because they are not capable of being evaluated by the Attorney General or the United States District Court for the District of Columbia. J.S., p. 44. To demonstrate this alleged difficulty of evaluation, Appellants pick out four of the factors listed in the Section 5 regulations which the Attorney General may consider in resolving a submission, e.g., the extent to which minorities were consulted or whether their concerns were taken into account. J.S., p. 42. The regulations, however, provide that the Attorney General should also consider, inter alia, the requirements of the

constitution and statutes designed to safeguard the right to vote and the relevant decisions of the Supreme Court and other federal courts. 28 CFR §§51.54 - 61. Not every factor identified in the regulations will be relevant in every case, but the Attorney General would surely be able to evaluate the purpose and effect of the changes involved in this appeal under existing Section 5 standards, which are far more extensive than Appellants have indicated.[8]

In addition, the Attorney General would not be required to "second guess" the state court judge. J.S., p.43. The Attorney General considers only whether a voting change is free of racial purpose or effect in light

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8. Appellants concede, as they must, that the court ordered changes in Hathorn v. Lovorn, supra, would be "easily" reviewable under Section 5. J.S., p. 43. Their analysis fails to explain, however, why the changes involved here should be regarded any differently.

of applicable constitutional, statutory and decisional voting rights law. 28 CFR §51.51, et seq. By granting preclearance he does not certify that a submission "satisfies any other requirement of the law beyond Section 5." 28 CFR §51.49. The Attorney General is not, therefore, an appellate body reviewing the merits of state court orders, either under state law or non-Section 5 standards. The Attorney General in fact does not review state court orders as such, but only voting practices enacted or implemented by covered jurisdictions - including those directed by state courts.

The voting changes which county officials were directed to implement in this case can be easily evaluated by the Attorney General or the United States District Court for the District of Columbia under current Section 5 standards.

V. There Is an Absence of any Conflict of Opinions

The decision of the three-judge court should be affirmed because there is an absence of any conflict between it and the decisions of this Court and lower federal courts.

Conclusion

This appeal should be dismissed on the ground that the appeal is not within this Court's jurisdiction. In the alternative the judgment sought to be reviewed on appeal should be affirmed on the ground that it is manifest that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

Respectfully submitted,

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WBR:MAP:JFZ:gmh
DJ 166-012-3
S6331
R1079
R3822-3825
S9822-9826

December 9, 1987

Preston B. Lewis, Jr., Esq.
Burke County Attorney
P. O. Box 62
Waynesboro, Georgia 30830

Dear Mr. Lewis:

This refers to the reestablishment of the Town of Keysville governed by a mayor and five councilmembers elected at large, with numbered positions and a majority vote requirement, to one-year concurrent terms with municipal elections held on the first Monday in January, the establishment of a polling place, and the procedures for conducting the January 4, 1988, special election for the town in Burke County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We recieved your initial submission on September 15, 1987; supplemental information was

received on November 10, November 20, and November 24, 1987. In accordance with your request, expedited consideration has been given this submission pursuant to the Procedures for the Administration of Section 5 (28 C.F.R. 51.34).

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See also 28 C.F.R. 51.41 and 51.43.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: s/Mark A. Posner
For Gerald W. Jones
Chief, Voting Section